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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: )  
)  
Nicolas J. Hammond )  
)  
Serial No. 09/592,404 ) Examiner: Christian Laforgia  
)  
Filed: June 13, 2000 ) Art Unit: 2131  
)  
For: METHOD AND APPARATUS FOR )  
AUDITING NETWORK SECURITY )  
)

**PETITION TO WITHDRAW HOLDING OF ABANDONMENT AND RESET A PERIOD  
OF REPLY DUE TO FAILURE TO RECEIVE AN OFFICE ACTION PURSUANT TO 37  
C.F.R. § 1.181(a) and M.P.E.P. § 710.06(I)**

Attention: James Dwyer, Director  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

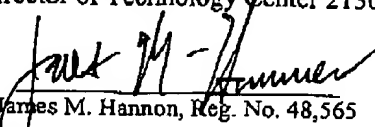
Sir:

Pursuant to M.P.E.P. § 1002.02(c), it is the Applicant's understanding that a Petition to Withdraw a Holding of Abandonment pursuant to 37 C.F.R. § 1.181(a) and M.P.E.P. §§ 711.03 and 711.03(c) is decided by the Technology Center Directors. Therefore, this petition is addressed to Director of Technology Center 2130, James Dwyer.

The above-referenced patent application went abandoned on January 26, 2007 for failure to timely file a proper response to a Notice of Non-Compliant Amendment mailed on July 26, 2006. The Notice of Abandonment is attached hereto as Exhibit A and the Notice of Non-Compliant Amendment is attached hereto as Exhibit B.

The Applicant named in the patent application identified above hereby Petitions to Withdraw the Holding of Abandonment made by the Examiner and reset the period for reply to the Notice of Non-Compliant Amendment pursuant to M.P.E.P. § 710.06(I).

I hereby certify that this correspondence is being facsimile transmitted to the Commissioner for Patents, Alexandria, VA 20231, Attention: Director of Technology Center 2130, James Dwyer, Facsimile No. 571-273-8300, on March 5, 2007.

  
James M. Hannon, Reg. No. 48,565

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03/05/2007 11:01:11  
00000003 09592404  
01 FC:1462  
400.00 OP

Application No. 09/592,404

In this Notice of Abandonment, the Examiner states that this application is abandoned in view of the Applicant's failure to timely file a proper response to the July 26, 2006 Office letter. However, it is the Applicant's position that until notified by the Examiner of the failure to respond, the Applicant was not aware that the Notice of Non-Compliant Amendment had been issued by the Patent Office. Furthermore, the Applicant was unaware of the Notice of Non-Compliant Amendment because the Patent Office mailed the Notice to the address of a previous firm having power of attorney over the application and failed to send the Notice to the correct address.

Exhibit C is a copy of the Revocation and Appointment of Power of Attorney and Change of Correspondence Address filed with the Patent Office for the above-referenced application on May 31, 2006, almost two months prior to the mailing date of the Notice of Non-Compliant Amendment. As is set forth in Form PTO/SB/122 of Exhibit C, the Applicant requested that the correspondence address be changed to the address associated with customer number 20786, which is King & Spalding LLP, 1180 Peachtree Street, Atlanta, GA 30309.

As is shown on the front page of Exhibit B, the Notice of Non-Compliant Amendment was not sent to King & Spalding, but instead, was sent to Needle & Rosenberg P.C., Suite 1000, 999 Peachtree Street, Atlanta, GA 30309. Because the Applicant had properly filed the Revocation and Appointment of Power of Attorney and Change of Correspondence Address, the mailing of the Notice of Non-Compliant Amendment to the firm of Needle & Rosenberg was a Patent Office error. The firm of Needle & Rosenberg never forwarded the Notice of Non-Compliant Amendment to the Applicant or to King & Spalding.

The Applicant and the undersigned were not aware of the outstanding Notice of Non-Compliant Amendment until the Examiner kindly called a colleague of the undersigned to inform him of the failure to respond. As can be seen on the front page of the Notice of Abandonment in Exhibit A, the Notice of Abandonment was received on February 26, 2007, as evidenced by the "Received" stamp and date on the front of Exhibit A. Each document received from the U.S.P.T.O. is reviewed and stamped as received by a mail clerk and docketed in our patent prosecution docketing system before being forwarded to the attorney handling the matter, as evidenced by the "Docketed" stamp having the same date. A copy of the Notice of Non-Compliant Amendment was downloaded from the PAIR system on the day the Notice of Abandonment was received from the Patent Office, February 26, 2007. The attached copy of the

Application No. 09/592,404

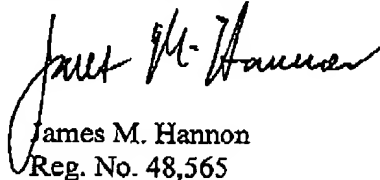
Notice of Non-Compliant Amendment does not include a "Received" stamp because it was not mailed from the U.S.P.T.O.

As required under M.P.E.P. § 710.06(I) this petition is being mailed within 2 weeks of the date of receipt of the Notice of Abandonment (received on February 26, 2007) because neither the Applicant nor the firm of the undersigned ever received the Notice of Non-Compliant Amendment for which the Applicant is petitioning to have the period for reply reset. At the time of receiving the Notice of Abandonment, the entire portion of the reply period, 30 days, and all opportunities for extension had elapsed for the Notice of Non-Compliant Amendment. Furthermore, the mailing of Notice of Non-Compliant Amendment to the wrong address was an error on the part of the Patent Office.

In view of the above, the Applicant respectfully requests reconsideration and withdrawal of the holding of abandonment and a resetting of the period for reply to the Notice of Non-Compliant Amendment under M.P.E.P. § 710.06(I).

If the Examiner believes that there are any issues that can be resolved by a telephone conference, or that there are any formalities that can be corrected by an Examiner's amendment, please contact the undersigned in the Atlanta Metropolitan area at 404-572-4691.

Respectfully submitted

  
James M. Hannon  
Reg. No. 48,565

King & Spalding LLP  
34<sup>th</sup> Floor  
1180 Peachtree Street  
Atlanta, Georgia 30309  
404.572.4600  
K&S Docket: 05456.105045

# EXHIBIT A



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO	CONFIRMATION NO.
09/592,104	06/13/2000	Nicolas J. Hammond	1-102,0002	5767

20786 7590 02/21/2007  
KING & SPALDING LLP  
1180 PEACHTREE STREET  
ATLANTA, GA 30309-3521

EXAMINER

LAFORECIA, CHRISTIAN A

ART UNIT PAPER NUMBER

2131

MAIL DATE DELIVERY MODE

02/21/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

DOCKETED  
2/26/07

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FEB 28 2007

KING & SPALDING LLP

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MAR 05 2007

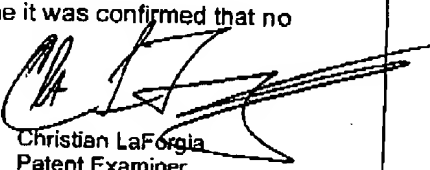
<b>Notice of Abandonment</b>	Application No.	Applicant(s)	
	09/592,404	HAMMOND, NICOLAS J.	
	Examiner	Art Unit	
	Christian La Forgia	2131	

**— The MAILING DATE of this communication appears on the cover sheet with the correspondence address—**

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 26 July 2006.
  - (a) ☐ A reply was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply (including a total extension of time of \_\_\_\_\_ month(s)) which expired on \_\_\_\_\_.
  - (b) ☐ A proposed reply was received on \_\_\_\_\_, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection. (A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
  - (c) ☐ A reply was received on \_\_\_\_\_ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
  - (d) ☒ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
  - (a) ☐ The issue fee and publication fee, if applicable, was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
  - (b) ☐ The submitted fee of \$ \_\_\_\_\_ is insufficient. A balance of \$ \_\_\_\_\_ is due.  
The issue fee required by 37 CFR 1.18 is \$ \_\_\_\_\_. The publication fee, if required by 37 CFR 1.18(d), is \$ \_\_\_\_\_.
    - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
  - (a) ☐ Proposed corrected drawings were received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply.
  - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on \_\_\_\_\_ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☒ The reason(s) below:

A phone call to King & Spalding LLP was returned on 15 February 2007, at which time it was confirmed that no response had been filed.

  
Christian LaForgia  
Patent Examiner  
Art Unit 2131

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

U.S. Patent and Trademark Office  
PTOL-1432 (Rev. 04-01)

Notice of Abandonment

PAGE 9/20 \* RCVD AT 3/5/2007 10:40:31 AM [Eastern Standard Time] \* SVR:USPTO-EFAXF-1/9 \* DNIS:2738300 \* CSID:404 572 5134 \* DURATION (mm:ss):05:32

20070215

# **EXHIBIT B**



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
 United States Patent and Trademark Office  
 Address: COMMISSIONER FOR PATENTS  
 P.O. Box 1459  
 Alexandria, Virginia 22313-1459  
 www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/592,404	06/13/2000	Nicolas J. Hammond	14102.0002	5767
23839	7590	07/26/2006	EXAMINER	
NEEDLE & ROSENBERG, P.C.			LAFORGIA, CHRISTIAN A	
SUITE 1000			ART UNIT	
999 PEACHTREE STREET			PAPER NUMBER	
ATLANTA, GA 30309-3915			2131	

DATE MAILED: 07/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.



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**Notice of Non-Compliant  
Amendment (37 CFR 1.121)**

Application No.	Applicant(s)	
09/592,404	HAMMOND, NICOLAS J.	
Examiner	Art Unit	
Christian La Forge	2131	

- The MAILING DATE of this communication appears on the cover sheet with the correspondence address -

The amendment document filed on 03 May 2006 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

**THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:**

- ☐ 1. Amendments to the specification:
- ☐ A. Amended paragraph(s) do not include markings.
  - ☐ B. New paragraph(s) should not be underlined.
  - ☐ C. Other \_\_\_\_\_
- ☐ 2. Abstract:
- ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
  - ☐ B. Other \_\_\_\_\_
- ☐ 3. Amendments to the drawings:
- ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
  - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
  - ☐ C. Other \_\_\_\_\_
- ☐ 4. Amendments to the claims:
- ☐ A. A complete listing of all of the claims is not present.
  - ☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
  - ☐ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
  - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
  - ☐ E. Other: \_\_\_\_\_
- ☒ 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4):  
see attached action

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

**TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:**

- Applicant is given no new time period if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the entire corrected amendment must be resubmitted.
- Applicant is given one month, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a Quayle action. If any of above boxes 1. to 4. are checked, the correction required is only the corrected section of the non-compliant amendment in compliance with 37 CFR 1.121.

Extensions of time are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a Quayle action.

Failure to timely respond to this notice will result in:

- Abandonment of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a Quayle action; or
- Non-entry of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

Legal Instruments Examiner (LIE), if applicable

Telephone No.

U.S. Patent and Trademark Office

PCR of PEP Form 20030708

Application/Control Number: 09/592,404  
Art Unit: 2131

Page 2

### **DETAILED ACTION**

#### ***Response to Amendment***

The reply filed on 03 May 2006 is not fully responsive to the prior Office Action because of the following omissions or matters: The Applicant does not meet the 37 CFR. 1.105 requirements set forth by the Examiner. The Examiner did **NOT** ask for the keywords and related products used to find the documents submitted in the Information Disclosure Statement of 25 July 2005. The Examiner requested an indication or explanation of the relevant sections of each document listed. See 37 CFR 1.111. Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).**

#### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christian LaForgia whose telephone number is (571)272-3792. The examiner can normally be reached on Thursday 7-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz Sheikh can be reached on (571)272-3795. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.


Application/Control Number: 09/592,404  
Art Unit: 2131

Page 3

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Christian LaForgia  
Patent Examiner  
Art Unit 2131

clf

  
AYAZ SHEKH  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100

# EXHIBIT C

## Auto-Reply Facsimile Transmission



TO: Fax Sender at 404 572 5134

Fax Information

Date Received: 5/31/2006 5:44:53 PM [Eastern Daylight Time]

Total Pages: 6 (including cover page)

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Received  
Cover  
Page  
=====

MAY 31 2006 17:48 FR KING AND SPALDING 404 572 5134 TO 6527#05456#10504 P.01

**KING & SPALDING, LLP**

1180 Peachtree Street  
Atlanta, Georgia 30309  
Telephone 404/572-6000  
Facsimile 404/572-5100  
[www.kspalld.com](http://www.kspalld.com)

**FAX TRANSMITTAL SHEET**

May 31, 2006

TO: Examiner Christian LaForgia  
CAU 2121  
U.S. Serial No. 09/392,404

Company: U.S. Patent and Trademark Office

Fax #: 572-572-5100

City/State: Alexandria, VA 22313

Mail Stop Amendment

FROM: James M. Harmon 6027

Our Ref #: 05456 (05045)

NUMBER OF PAGES (including transmittal sheet): 6

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**Notes/Comments:**

Documents Submitted Via Facsimile:

Applicant: Nicolas J. Hanssard et al.

Serial No.: 09/392,404

Filed: June 13, 2000

For: Method and Apparatus for Auditing Network Security

Papers Faxed: Transmittal Sheet (1-pg.); Form PTO/SB/122 (1-pg.); Revocation and Appointment of Power of Attorney (2-pgs.) and Form PTO/SB/96

PAGE 16 \* RCVD AT 5/31/2006 5:44:53 PM [Eastern Daylight Time] \* SVR:USPTO-EFAXF-41 \* DNIS:2738300 \* CSID:404 572 5134 \* DURATION (mm:ss):07:04

# KING & SPALDING, LLP

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1180 Peachtree Street  
Atlanta, Georgia 30309  
Telephone: 404/572-4600  
Facsimile: 404/572-5100  
[www.kslaw.com](http://www.kslaw.com)

## FAX TRANSMITTAL SHEET

May 31, 2006

TO: Examiner Christian Laforgia  
GAU 2131  
U.S. Serial No. 09/592,404

Company: U.S. Patent and Trademark Office

Fax #: 571-273-8300

City/State: Alexandria, VA 22313

### Mail Stop Amendment

FROM: James M. Hannon

6527

Our Ref. #:

05456.105045

NUMBER OF PAGES (including transmittal sheet): 6

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Thank you.

### Notes/Comments:

#### Documents Submitted Via Facsimile:

Applicant: Nicolas J. Hammond et al.

Serial No.: 09/592,404

Filed: June 13, 2000

For: Method and Apparatus for Auditing Network Security

Papers Faxed: Transmittal Sheet (1-pg.); Form PTO/SB/122 (1-pg.); Revocation and Appointment of Power of Attorney (2-pgs.) and Form PTO/SB/96.

PATENTS

IN THE U.S. PATENT AND TRADEMARK OFFICE

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In re application of:

Docket No.: 05456.105045

Nicolas J. Hammond et al.

Serial No.: 09/592,404

Art Unit: 2131

Filed: June 13, 2000

For: Method and Apparatus for Auditing  
Network Security

Examiner: Christian Laforgia

Confirmation No.: 5767

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

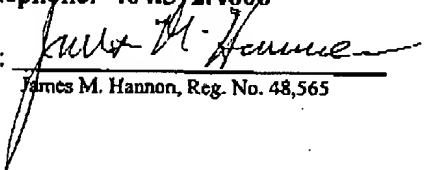
Transmitted herewith are papers in the above-identified application.

- ☒ Form PTO/SB/96
- ☒ Form PTO/SB/122
- ☒ Revocation and Appointment of Power of Attorney
- ☒ An additional fee is not required.
- ☐ The additional fee is calculated as shown below:

I hereby certify that this correspondence is being facsimile transmitted  
to Commissioner for Patents, P. O. Box 1450,  
Alexandria, VA 22313-1450, Attn: Examiner Christian Laforgia,  
GAU 2131, Facsimile No. (571) 273-8300 on May 31, 2006.

  
James M. Hannon, Reg. No. 48,565

KING & SPALDING LLP  
34<sup>th</sup> Floor  
1180 Peachtree Street, N.E.  
Atlanta, Georgia 30309  
Telephone: 404.572.4600

By:   
James M. Hannon, Reg. No. 48,565

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